

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO**

**CARLOS PASTRANA FUENTES and  
ARACELIS FUENTES ORTIZ**

Plaintiffs

vs.

**UNITED STATES OF AMERICA**

Defendants

CIVIL NO:

Subject: Medical Malpractice

**C O M P L A I N T**

TO THE HONORABLE COURT:

COME NOW the plaintiffs, Carlos Pastrana Fuentes (“**Pastrana-Fuentes**”) and Aracelis Fuentes Ortiz (“**Fuentes-Ortiz**”) through their undersigned legal representation and respectfully **ALLEGE, STATE and PRAY:**

**I. NATURE OF THE ACTION**

1.1 This is an action seeking compensatory damages as a result of the defendant’s agents and employee’s tort and negligent actions and omissions. These acts and omissions occurred when Pastrana-Fuentes was brought to Concilio de Salud Integral de Loíza, Inc. (“**CSILI**”) and was treated by defendant’s doctors and hospital employees. As the direct result of their negligent acts and omissions plaintiffs’ damages were caused, related particularly with Pastrana-Fuentes loss of his right testicle, possible apoptosis of the contralateral testis, and abnormal semen analysis.

**II. JURISDICTION AND VENUE**

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2.1 This Court has subject matter jurisdiction pursuant the Federal Torts Claims Act [FTCA] 28 U.S.C § 1346 [b], 2671-2680, as CSILI is a covered employee and entity under the Federally Supported Health Center Assistance Act, 42 USC §2339 [c], [g]–[n] [F.S.H.C.A.A.] for the US Department of Health and Human Services.

2.2 Venue is proper pursuant to 28 U.S.C. § 1391 [a], as all the events and omissions, giving rise to the claim, occurred within the jurisdiction of Puerto Rico.

2.3 On July 19, 2014 Pursuant to [FTCA], 28 U.S.C. §§ 1346 [b], 2410 [b], 2671-2680, plaintiffs timely filed administrative claims before the US Department of Health Human Services.

2.4 The United States Department of Health & Human Services acknowledges receipt of the Standard Forms filed by plaintiffs on July, 22, 2014 through a letter dated July 29, 2014.

2.5 The United States Department of Health & Human Services has failed to make a final disposition of a claim.

### **III. PARTIES**

3.1 Pastrana-Fuentes with residential address at Road No. 187, km 8.6, Medianía Baja, El Jobo Sector, Loíza, P.R., 00772, and his telephone number is (787) 568-1501.

3.2 Fuentes-Ortiz with residential address at Road No. 187, km 8.6, Medianía Baja, El Jobo Sector, Loíza, P.R., 00772, and her telephone number is (787) 568-1501.

3.3 CSILI is a covered employee and entity under the Federally Supported Health centers Assistance Act, [F.S.H.C.A.A.] for the United States Department of Health & Human Services, cognizable under the provisions of the Federal Tort Claims Act and consequently, was responsible for patient's medical care since the onset of his health condition alleged to in this

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complaint. As more particularly set forth below, the negligent acts and omissions of said defendant's agents, as physicians and its nursing staff, caused and contributed to patient's physical damages, and thus, to plaintiffs' damages alleged herein.

#### **IV. FACTS**

4.1 On July 26, 2012, Pastrana-Fuentes who was a male at the time of 19 years old was taken to Canóvanas CDT, by his mother, the co-plaintiff Ms. Fuentes-Ortiz. Pastrana-Fuentes's main complaint was abdominal pain, "since today PM". The emergency room physician Dr. Jonathan L. Soto Aviles documented that Pastrana-Fuentes's pain persisted and he denied having fever, vomiting or diarrhea. At abdominal level, it was described as a soft abdomen, depressible, with bowel sounds present and there were no signs of rebound found. The genital examination was deferred. The provisional diagnosis was abdominal pain. The medical record reflects that a blood count (CBC), a basic metabolic panel, and urinalysis were ordered. As treatment, the patient received Zantac<sup>1</sup>, 50 mg IV, and Bentyl<sup>2</sup> 20 mg, orally. The blood count showed 10,550 white blood cells with a 72.4% of neutrophils. The urine test showed 8-10 white blood cells/ per field and moderate-bacteria per/field was observed. There were traces of leukocytes, and the nitrite in urine was negative. A basic metabolic panel showed elevated levels of blood sugar. There was no space provided on the record, and it was not found in the record that Pastrana-Fuentes was re-evaluated, reaching a final diagnosis, although it appears that Pastrana-Fuentes was medically discharged "stable" at 3:58 A.M.

4.2 On July 30, 2012, Pastrana-Fuentes attended CSILI. According to the nurse, Pastrana-

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<sup>1</sup> Blocker acid production medication for stomach gastritis and ulcer.

<sup>2</sup>Antispasmodic medication widely utilized for gastrointestinal problems, like abdominal pain.

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Fuentes referred to as "lower abdominal pain." Dr. John Doe, who evaluated him, documented that Pastrana-Fuentes had pain in the testicular area and apparently had a urinary tract infection, because the "patient was on ER at weekend and they say that he had UTI". On the physical examination, a soft, depressible abdomen is described, with bowel sounds present. In addition, some inflammation and hardening of the right testicle was found. The plan that was established was to prescribe Septra DS®<sup>3</sup> twice a day for 14 days and Motrin®<sup>4</sup> 600 mg, three times a day. Testicular sonogram was also ordered.

4.3 Testicular sonogram was performed at Fajardo Imaging on the same day, July 30, but was "Submitted for interpretation" on July 31, 2012. The diagnostic impression by Dr. Diana Fernández García was that the sonographic examination was consistent with a testicular torsion, and a urologic consultation and clinical correlation were recommended "as soon as possible". The transcript of the report was held on August 1, 2012.

4.4 On August 1, 2012, at 2:50 PM, it was documented in CSILI that the sonogram performed on July 30 was positive for a right testicular torsion, and they proceeded to call Fuentes-Ortiz and referred Pastrana-Fuentes to the UPR Hospital (Dr. Federico Trilla).

4.5 The patient history which was obtained by the physician in the Emergency Room of the UPR Hospital was as follows: "19 year old male patient who presented swelling of right testicle for six (6) days. It started suddenly, while sitting. Symptoms are crescendo-decrescendo. In addition, the patient/family denies fever, chills, nausea, vomiting, abdominal pain, back pain, trauma, paresthesia, discharge from the penis, dysuria, and hematuria. The patient was evaluated

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<sup>3</sup>Antibiotic; primary selection for urinary infection.

<sup>4</sup>Anti-inflammatory nonsteroidal, effective as an analgesic.

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in Canovanas CDT the day that the symptoms began and was discharged with antibiotics for UTI and analgesics. Two days ago, he went to Loíza where he was ordered a testicular sonogram as outpatient ... "On examination, an enlargement and swelling of the right testicle was described, without pain," blue dot sign negative 'hard to palpation, with absence of cremasteric reflex. The initial impression was diagnosed as testicular torsion; therefore, an Urologist was consulted. The Urologist's diagnosis was "missed testicular torsion." The patient was taken to the Operating Room on August 2, 2012. The surgical procedure performed was a right orchiectomy and a fixation of the left testicle. The pathology report was: "testicle with diffuse hemorrhaging and necrosis consistent with acute ischemic changes (testicular infarction), status post torsion".

## **V. DAMAGES**

5.1 As a result of the continued errors, omissions, inadequate and clearly erroneous medical treatment, as well as an evident abandonment and disregard for Pastrana-Fuentes well-being on the part of the physicians and the hospital personnel of CSILI, Pastrana-Fuentes suffered immensely and underwent a surgery, the loss of his right testicle, suffered a serious mutilation of his testicular area, possible apoptosis of the contralateral testis, and abnormal semen analysis. The complications were caused by the negligence of the physicians and the hospital personnel of CSILI after not diagnosing on time the testicular torsion and by not providing adequate treatment to Pastrana-Fuentes.

5.2 The medical treatment given to Pastrana-Fuentes in CSILI was one of evident apathy and disregard for his well-being and abandonment on the part of the physicians and the hospital personnel; there was a lack of monitoring, negligent and inadequate treatment as well

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as lack of analysis and evaluation of his condition, thus inhibiting and/or eliminating any possibility of recovery.

5.3 As a direct and proximate result of the negligent acts and omissions described above, plaintiff Pastrana-Fuentes suffered and continues suffering physical pain and mental anguish by the mutilation and deterioration of his health that affects his quality of life. He requests as compensation for his damages a sum of not less than One Million Five Hundred Thousand Dollars (\$1,500,000.00).

5.4 As a direct and proximate result of the negligent acts and omissions described above, plaintiff Fuentes-Ortiz as the mother of Pastrana-Fuentes has suffered emotional and mental anguish. She requests as compensation for her damages a sum of not less than Five Hundred Thousand Dollars (\$500,000.00).

## **VI. PRAYER FOR RELIEF**

**WHEREFORE**, the plaintiffs very respectfully prays that the Honorable Court enter judgment against the defendants and award damages in their favor in the amount of Two Million Dollars (\$2,000,000.00), plus costs interest and attorney's fees.

**RESPECTFULLY SUBMITTED**, in San Juan, Puerto Rico, this 12<sup>th</sup> day of June 2015.

s/ Rafael O. Baella-Ors  
(U.S.D.C. P.R. #219504)  
Attorney for the plaintiff  
1007 Muñoz Rivera Ave.  
Suite 601, Río Piedras, P.R. 00925  
Telephone: (787) 766-6670  
Fax: (787) 756-8656  
rbolaw@gmail.com